

ENTERED

July 12, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

CLIFFORD JOHNSON,	§	
	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO. 2:17-CV-161
	§	
MISSY MEDARY,	§	
	§	
Respondent.	§	

ORDER


Petitioner is currently in custody awaiting trial on criminal charges pending against him in the 347th District Court of Nueces County. Petitioner has filed a petition, construed as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his arrest and detention for indecency with a child. (D.E. 1). Pending is Petitioner's Motion for Discovery. (D.E. 13).

A habeas petitioner is generally not entitled to discovery. Rather, "Rule 6 of the Rules Governing § 2254 cases permits discovery only if and only to the extent that the district court finds good cause." *Murphy v. Johnson*, 205 F.3d 809, 814 (5th Cir. 2000) (emphasis added); *see also United States v. Webster*, 392 F.3d 787, 801 (5th Cir. 2004) ("A habeas petitioner may 'invoke the process of discovery available under the Federal Rules of Civil Procedure if, and to the extent that, the judge in the exercise of his discretion and for good cause shown grants leave to do so, but not otherwise.'") (citation

omitted). The Fifth Circuit has explained that “[i]n order to establish good cause, the petitioner must demonstrate that ‘a factual dispute, if resolved in the petitioner’s favor, would entitle him to relief and the state has not afforded the petitioner a full and fair evidentiary hearing.’” *Lave v. Dretke*, 416 F.3d 372, 381 (5th Cir. 2005) (quoting *Ward v. Whitley*, 21 F.3d 1355, 1367 (5th Cir. 1994)).

A Memorandum and Recommendation (“M & R”) was entered on June 22, 2017, recommending this case be dismissed without prejudice for lack of jurisdiction. (D.E. 12). Therefore, Petitioner’s Motion for Discovery is **DENIED**.

ORDERED this 12th day of July, 2017.



Jason B. Libby
United States Magistrate Judge